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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,671	08/17/2001	Christopher John Marshall	2001-01	5047

7590

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Mark H. Snyder  
375 Walnut Avenue  
Unit E  
Carlsbad, CA 92008

EXAMINER

BURNHAM, SARAH C

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 11/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/932,671

Applicant(s)

MARSHALL, CHRISTOPHER  
JOHN

Examiner

Sarah C. Burnham

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 6-20 is/are pending in the application.
- 4a) Of the above claim(s) 15, 16 and 20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 6-10 is/are allowed.
- 6) ☒ Claim(s) 17-19 is/are rejected.
- 7) ☒ Claim(s) 11-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 11-16 are objected to because of the following informalities: The phrase "to maintain the integrity of said containment area for containment of liquid spills within said mat" is repeated twice in lines 13-15. Claims 12-14 are objected to as being dependent upon an objected base claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 17-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "said horizontal portion having a flange" (claim 17, line 12) is vague and indefinite because the Examiner does not know whether applicant is referring to the horizontal portion that conforms to the seat or the horizontal portion that conforms to the foot well.

Claims 18 and 19 are rejected as being dependent upon a rejected base claim

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 17-19 are rejected as best understood with the above cited indefiniteness under 35 U.S.C. 103(a) as being unpatentable over Conte (6,276,752) in view of Watson et al. (5,120,108). Conte reveals a mat (10) "for motor vehicle seating" (column 3, line 3). The mat (10) has a perimeter (unlabeled) and a conformal surface (20)(24) for placement between a motor vehicle seat (14) and a child safety seat (12). The mat (10) has a lateral dimension (unlabeled) and a longitudinal dimension (unlabeled). The lateral dimension (unlabeled) of the mat (10) extends beyond the lateral confinement (unlabeled) of the child safety seat (12), as best seen in Figure 1. The conformal surface (20)(24) has a horizontal portion (20) that conforms to the seat (14) and a vertical portion (24) that conforms to the seat back (unlabeled). The mat (10) has a flange (unlabeled) comprised of sidewalls (22)(25)(26)(30)(32)(34) extending at least one inch from conformal surface (20) around the entire periphery (unlabeled) of conformal surface (20)(24). The flange (unlabeled) and the conformal surface (20)(24) define an enclosed, liquid-proof space surrounding a child safety seat adapted to contain liquids and other debris to protect a horizontal surface of the motor vehicle seat (14) (column 3, lines 20-23). Mat (10) is constructed of a plastic material flexible enough to allow the flange to be folded against the conformal surface for easier storage (column 4, lines 51-54). Mat (10) includes a pass-through (44) for a safety belt (16) that maintains integrity of the conformal surface (20)(24).

With respect to claim 17, Conte reveals all claimed elements with the exception of a mat having a vertical portion that conforms to said vertical foot well surface, and a horizontal portion that conforms to said horizontal foot well surface.

Watson et al. teaches the use of a seat and protection device (10) that has a longitudinal dimension (unlabeled) that extends into a footwall area (unlabelled). Device (10) has a vertical portion (16) that conforms to a vertical wall (unlabeled) of a foot well area (unlabeled) and a horizontal portion (22) that conforms to the floor (26) of the foot well area (unlabeled).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to extend the longitudinal dimension of the mat (10) disclosed by Conte with the teachings of Watson et al. Such a modification would extend the protection provided by the Conte device beyond the vehicle seat to include a downward extending surface of the vehicle seat and the vehicle floor and would also provide additional traction to the seat occupant when they are entering the vehicle.

With respect to claim 18, Conte does not explicitly state that the lateral dimension of the mat (10) extends at least 2 or 3 inches beyond the lateral confinement of the safety seat (12). Applicant does not reveal the criticality of the 2 or 3-inch extension of the lateral dimension beyond the lateral confinement of the safety seat. Therefore, it is of the examiner's opinion, that the 2 or 3-inch extension of the lateral dimension beyond the lateral confinement of the safety seat is a matter of design choice.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to design the lateral dimension to extend 2 or 3-inches beyond the

lateral confinement of the safety seat. Such a design choice would ensure that a variety of different sized child safety seats could be accommodated within the lateral dimension (unlabeled) of the mat (10).

With respect to claim 19, Conte does not explicitly state that containment area (unlabeled) of mat (10) is capable to holding over one half liter of liquid. A reasonable interpretation of the dimensions of the seating device disclosed in the Conte drawings would lead one of ordinary skill in the art to assume that the device inherently holds in excess of 61.02 cubic inches of water (i.e. a minimum of 8 inches wide, 8 inches long and 1 inch high).

#### ***Allowable Subject Matter***

6. Claims 1-3 and 6-10 are allowed.
7. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements (i.e. objection to claims 11-16) or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

#### ***Response to Amendment/Arguments***

8. The amendment filed on October 21, 2003 has been considered in its entirety. Remaining issues are detailed in the sections above.

The arguments with respect to claims 1-16 are moot in view of the fact that these claims are now indicated as allowable above.

With respect to claim 17, Applicant argues that Watson does not show a horizontal portion that conforms to the horizontal foot well surface and includes a flange extending outward from the conformal surface. This limitation however is not presented in the claim. The claim recites two horizontal portions; one that conforms to the seat and one that conforms to the horizontal surface of the foot well. The claim continues to recite that the horizontal portion has an outwardly extending flange. It does not indicate which horizontal portion has an outwardly extending flange. Therefore, the Examiner believes that under the broadest reasonable interpretation it is acceptable to assume that the flange extends from the horizontal surface that conforms to the seat. This is clearly shown by Conte as described above.

Furthermore, the Applicant argues that the Conte and Watson references should not be combined given that their relevant teachings are inconsistent with each other. More specifically, Conte discloses a device used for protecting a surface by placing it under a seat while Watson discloses a device used for protecting a surface by placing it on a seat. It is of the Examiner's opinion, however, that since both devices are used to protect surfaces and used in conjunction with seating devices it is obvious to make the combination recited above.

### ***Conclusion***


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah C. Burnham whose telephone number is 703-305-7315. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-1113.

SCB  
October 27, 2003

  
Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600